

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

CATHY A. WISE)	
Claimant)	
VS.)	
)	Docket No. 222,573
GT SALES & MANUFACTURING, INC.,)	
Respondent)	
AND)	
)	
ITT HARTFORD)	
Insurance Carrier)	

ORDER

Respondent and its insurance carrier requested review of the preliminary hearing Order dated May 8, 1997, entered by Administrative Law Judge John D. Clark.

ISSUES

The Administrative Law Judge granted claimant's request for medical and temporary total disability benefits. Respondent and its insurance carrier requested the Appeals Board to review the following issues:

- (1) Did claimant sustain personal injury by accident arising out of and in the course of her employment with respondent?
- (2) Did claimant sustain a subsequent injury which is the cause of claimant's present need for medical treatment?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for preliminary hearing purposes the Appeals Board finds as follows:

The preliminary hearing Order should be affirmed.

Claimant alleges she injured her back while working for the respondent between October 1994 and October 3, 1996. Although she was hired as a receptionist, claimant contends she was required to lift heavy boxes of files, bend and stoop to handle mail, and perform other duties. Claimant contends those activities either injured her back or aggravated a preexisting condition of scoliosis.

According to the medical records, claimant has had back problems for most of her life. At age 15 she had Harrington rods placed in her back to correct severe scoliosis. In 1981 she had the rods removed. Claimant also has degenerative disc disease with some disc bulging at four intervertebral levels. At the preliminary hearing claimant introduced a letter dated May 6, 1997, from her family physician, Lyle W. Brooks, M.D., which indicated the work claimant performed for respondent aggravated her back problems.

For purposes of preliminary hearing, the Appeals Board agrees with the Administrative Law Judge's conclusion that claimant is entitled to workers compensation benefits for her back condition. In the absence of additional medical evidence, it is reasonable to conclude claimant's severe scoliosis and/or degenerative disc disease problems were aggravated, either temporarily or permanently, from the lifting, bending, and stooping she performed while working for respondent through October 3, 1996.

At this stage of the proceeding, the Appeals Board also finds claimant's present need for medical treatment is related to the work she performed for respondent rather than her fall at home in December 1996.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated May 8, 1997, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 1997.

BOARD MEMBER

c: Stephen J. Jones, Wichita, KS
P. Kelly Donley, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director